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EXAMINER

GREEN, RICHARD R

ART UNIT

PAPER NUMBER

3644

NOTIFICATION DATE

DELIVERY MODE

03/17/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/590,025	Applicant(s) BOCK ET AL.	
	Examiner Richard R. Green	Art Unit 3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18,20-34,46-51 and 56-65 is/are pending in the application.
- 4a) Of the above claim(s) 46-51 and 56-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18,20-34 and 39-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of the species of figures 1-19, corresponding to claims **18, 20-34 and 39-44** in the reply filed on 11/16/2009 is acknowledged.

Claims **46-51 and 56-65** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/16/2009.

Claim Objections

Claim **18** is objected to because of the following informalities:

The chair is described to be foldable between seating and support arrangements (§ 4), as well as from first to second positions (§ 9). The first and second positions appear to correspond to the seating and support arrangements, respectively, and reference is not made again to the arrangements. The chair has been considered for examination as having two, not four, different positions, as this appears to have been the intent. Is the reference to the arrangements (§ 4) necessary?

The first paragraph on the second page, describing the various configurations of the chair, should be moved to before the last paragraph on the first page, which describes how other claim features interact with the chair in its various configurations.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 18, 20-34 and 39-44 are rejected under 35 U.S.C. 112, first paragraph,

as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 18, 20-34 and 39-44 are rejected under 35 U.S.C. 112, first paragraph,

as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

Regarding claim 18: The chair is described to be "moveable to be arranged in the sleep configuration" "when the bed is arranged in the sleep position" (§ 8), the sleep configuration being described in which "the chair is folded and defines a support for the bed" (§ 9). As worded, the claim describes the chair to be capable of moving to the sleep configuration when the bed is already in the sleep position. This is impossible by the particular definition of the sleep position of the bed, wherein "it is supported by at least the seat and one of the chair in the second position..." (§ 10), and the structure shown in figures 6-8 appears to necessarily function by folding the chair before the bed

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can be placed in the sleep position. If the limitations of paragraph 8 were meant merely to describe that the chair is arranged in the sleep configuration when the bed is arranged in the sleep position, the term, "moveable" should be replaced. It appears that removal of "moveable to be" in its two occurrences would suffice.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 18, 20-34 and 39-44 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 18: Some confusion exists concerning the number of positions of the chair, the wording of the folding ability of the chair, and the optional requirement of the seat. The chair is described to be foldable between seating and support arrangements (§ 4), as well as from first to second positions (§ 9). Are four positions required? Examination of the claim has been made with the consideration that the chair is claimed with only two different positions, a first position or seating arrangement, and a second position or support arrangement.

The chair is described to be "moveable to be arranged in the sleep configuration", "when the bed is arranged in the sleep position" (§ 8) and "foldable from a first position in which a person can sit upright in the chair to a second position in which the chair is folded and defines a support for the bed ... when the bed is in the sleep position" (§ 9). Is the chair actually capable of folding from the upright to the folded support positions while the bed is already in the sleep position, as the claim

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language implies? It does not appear from figures 6-8 that this is possible. Instead, is the chair "arranged ... in" the first or second position corresponding to the respective position of the bed? If the latter, then in paragraph 8, the phrase "moveable to be" may be removed, and in paragraph 9, the foldable nature of the chair could be discussed separately from the definitions of the two positions, and the claim would no longer imply that the chair could fold from upright to support after the bed was already on top of it.

The bed is described to be "supported by at least the seat and one of the chair in the second position and the credenza", "when the bed is in the sleep position" (§ 10), requiring the bed to be supported by the seat, and either the folded chair or the credenza. However, the chair is previously described to "[define] a support for the bed ... when the bed is in the sleep position" (§ 9), and so the folded chair does not optionally support the bed as described at the end of the claim. Further, the credenza and the seat are first introduced as "at least one of a credenza ... and a seat" (§ 6), such that the claim requires either one or the other, yet this later description (§ 10) does not describe the seat as if it were optionally present. Is the seat then positively required by the claim? Note also that claims **40-43** describe features of either the seat or credenza, where it is not clear that the seat or credenza is no longer optionally claimed, and claim **44** describes an arrangement including both the seat and the credenza without first stating that both are required.

Regarding claim 29: reference is made to "the sections of the doorway walls that are on opposite sides of the doorway", yet the doorway is described to divide the doorway wall into two sections in claim 21, from which this claim does not depend.

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There is insufficient antecedent basis for this limitation in this claim; this limitation from claim 21 could be inserted into claim 29, since other limitations from claim 21 are not necessary for antecedent basis.

Regarding claim 30: reference is made to "the view through the windows in the doorway walls", though the description, "at least two windows, with at least one window in each section of the doorway wall" appears in claim 25, from which this claim does not depend. There is insufficient antecedent basis for this limitation in this claim; it could be simplest to simply remove the word, "the", simultaneously introducing windows in both doors and the doorway wall. Additionally, for consistent antecedent basis, reference should preferably be made to sections of the doorway wall rather than plural doorway walls.

Regarding claim 39: reference is made to "the inoperative position" of the chair, however no such position of the chair is described in parent claim 18. This appears to correspond with the second position of the chair.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 20-22, 27, 32 and 39-41 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 2,612,120 to Crawford.

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Regarding claims 18, 20, 40 and 41: Crawford teaches a private passenger compartment (18 or 19) for a passenger during an aircraft flight comprising:

A plurality of compartment walls (11, 12, 26, 27) that are at least 1.6 meters high (see fig. 5) and define a compartment space, one of said walls (27) having a bed storage space (28),

A doorway (see fig. 6, at curtain 160) in one of the walls (aisle wall 26) that enables access to the compartment from an aisle (16);

A chair (67) that is disposed in the compartment space and suitable for take off and landing of the aircraft, and is foldable between a seating arrangement (of fig. 5) and a support arrangement (of fig. 6);

A bed (25) that is foldable and moveable between a horizontal sleep position (of fig. 6) in the compartment space and a vertical storage position (of fig. 5) in the bed storage space (28) (col. 4, lines 27-30);

A credenza (70) that may house a table assembly (it is capable of this);

a seat (21) located in the compartment space and adjacent a wall (36) that is opposite said one of said walls (27) having a bed storage space (28);

wherein the chair (67) is foldable from a first position in which a person can sit upright in the chair in at least one of relaxation and work configurations (shown in fig. 5) to a second position in which the chair is folded and defines a support for the bed (25) in the sleep configuration when the bed is in the sleep position (shown in fig. 6);

wherein, when the bed is positioned in the storage position (of fig. 5), the chair is moveable to be arranged in at least one of the relaxation and work configurations, and

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when the bed is arranged in the sleep position (of fig. 6), the chair is moveable to be arranged in the sleep configuration (the chair is in the sleep configuration when the bed is in the sleep position, and the chair is in the upright position when the bed is in the storage position, see figs. 5-6);

wherein, when the bed is in the sleep position (of fig. 6), it is supported by at least the seat (21), the credenza (70) and the chair (67) (see fig. 3 or 6).

Regarding claims 21 and 22: two opposed end walls (27) interconnect two opposed side walls (26 and 11 or 12) and together define the compartment space (18 and 19), with the doorway being positioned centrally in one of the side walls (26) and dividing the side wall into two sections, with one on either side of the doorway (see fig. 1 or 5-6: a portion of wall 27 extends to either side of the combined compartment 18 + 19, with the doorway being wide enough to provide access to both sections).

Regarding claims 27 and 32: a door assembly (160) comprising a curtain (160) supported by an upper rail (161) is included (col. 10, lines 64-73).

Regarding claim 39: the chair (67) defines a bedside table when the chair is in the inoperative position (see fig. 3: some portion of the chair 67 is not covered by the bed 25, and could be used as a small table).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 18, 20-23, 27-29 and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 7,318,622 to Rezag et al. in view of WO 2003/013942 to Ferry et al.

Regarding claims 18, 20-23 and 40: Rezag teaches a private passenger compartment for a passenger during an aircraft flight (fig. 1) comprising:

A plurality of compartment walls (10) that define a compartment space, one of said walls having a bed storage space (the wall opposite the doorway);

A doorway (12) positioned centrally in one of the walls that enables access to the compartment from an aisle and divides the wall in two sections which are curved so that the compartment is wider in these sections than in the region of the doorway (fig. 1: the compartment is narrowest at the doorway and wider towards the outside ends of the doorway wall sections, along the dimension in which the chair reclines);

A chair (2) suitable for take off and landing and foldable and moveable between a seating arrangement in which a person can sit upright (as shown in fig. 1) and a support arrangement in which the chair is folded and defines a support for the horizontal bed (for example, in fig. 4 or 7d);

A bed (32') that is foldable and moveable between a horizontal sleep position (fig. 7d) and a vertical storage position in the bed storage space (fig. 7a; storage space shown in more detail in fig. 1);

At least one of a credenza and a seat (36, of figs. 7a-d) adjacent a wall opposite the wall having a bed storage space (the seat 36 is adjacent the aisle wall, which opposes the bed storage wall);

Wherein the chair may be configured for either relaxation or work when the bed is in the vertical storage position (such as fig. 13a or fig. 13b); and

Wherein the bed is supported by the folded seat (36) in the support position and the chair (2) when the bed is in the horizontal sleep position (fig. 7d);

Rezag teaches that the walls (10) have "for example, a height of approximately 80 cm" for purposes of privacy (c. 6, l. 22-31), though allows that "a different height can be chosen" (c. 6, l. 31-32). Rezag is silent on a height of at least 1.5 or 1.6 meters.

However, Ferry teaches a passenger compartment convertible between seating and sleeping configurations having four walls which serve as a privacy screen, at least three of which walls are preferably full-height, extending from floor to ceiling. Though Ferry does not give a discrete measure for a full height wall, it would reasonably be considered to be greater than 1.6 meters (about 5 feet, 3 inches), and some estimate of the full height may be found from observing figs. 5A-C, wherein a wall which is half of full height is shown to house a door panel formed from a panel from a false floor, the width of which is disclosed to be "preferably at least 3 feet (91.4 centimeters)" (page 7, lines 18-22), providing a reasonable full height of around 1.8 meters.

It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide the walls of Rezag as full height walls, as taught by Ferry, for the purpose of increased privacy.

Regarding claim 39: the armrest (8) of the chair (2) defines a bedside table when the chair is reclined (fig. 4: see particularly the inside armrest).

Regarding claim 41: the unit (36) of Rezag is disclosed to have several functions, including that of a seat, but also for storage or to house a video screen (c. 9, l. 64 - c. 10, l. 4). The upper portion of the unit (36) is disclosed to support the bed (32') when the bed is deployed to its horizontal position (c. 10, l. 5-24). The upper portion which may serve as a seat is considered as a seat, yet the base of the unit, which may store bedding or house a television screen is more multifunctional, and may be considered as a credenza.

Claims 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry as applied to claim 23 above, and further in view of FR 2,842,497 to Saint-Jalmes, as evidenced by the corresponding English language US Patent Publication 2005/0001097 to Saint-Jalmes.

Regarding claims 24-26: Rezag and Ferry are both silent to windows in the doorway wall portions, however, Saint-Jalmes teaches that it is desirable to provide a passenger module with a transparent portion in order that the crew can observe the passengers inside during takeoff and landing procedures (§ 50), which transparent portion may be obscured during flight by a shade or blinds (§ 53). Though the transparent portions of Saint-Jalmes are not shown in the doorway walls, the particular arrangement of furniture is such that the transverse wall of Saint-Jalmes provides superior visibility (see fig. 2: the lavatory blocks most of the aisle wall). In the passenger accommodations of Rezag or Ferry, the flight crew could most easily observe passengers while walking down the aisles if such a transparent portion were on the doorway walls, and as such it would have been obvious to a person having ordinary

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skill in the art at the time of the invention to provide the doorway walls of Rezag, as modified by Ferry, with windows equipped with blinds as taught by Saint-Jalmes, for the purpose of allowing the flight crew to observe passengers during takeoff and landing maneuvers while providing privacy during flight.

Claims 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry as applied to claim 18 above, and further in view of US Patent 4,134,233 to Gutridge et al.

Regarding claims 27 and 28: Rezag fails to teach a door assembly for closing the doorway.

Gutridge teaches a sliding door for a passenger compartment, the door (22) having a transparent window (55) equipped with a retractable shade (69) (c. 3, l. 52-59), and which is mounted to retract within the doorway wall (figs. 2-3: the door slides in rail 62, which is mounted on the interior of the compartment). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the door of Gutridge in the compartment of Rezag as modified by Ferry for the purpose of closing the compartment while it is occupied.

Regarding claims 29-31: Gutridge teaches a single door, however it would have been obvious to a person having ordinary skill in the art at the time of the invention to provide a pair of opposed sliding doors to close the doorway of Rezag as modified by Ferry, for the purpose of providing a symmetrical closure for the opening.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry as applied to claim 27 above, and further in view of US Patent 5,024,398 to Riedinger et al.

Regarding claim 32: Rezag and Ferry fail to teach a door assembly comprising a curtain supported by a sliding upper rail. However, Riedinger teaches an aircraft compartment which is closed by a curtain (18) supported by an upper rail (Riedinger fig. 5). It would have been obvious to a person having ordinary skill in the art at the time of the invention to implement the curtain of Riedinger to close the doorway of Rezag, as modified by Ferry, for the purpose of increased privacy by closing the doorway.

Claims 33 and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry and Riedinger as applied to claim 32 above, and further in view of US Patent Application Publication 2002/0084042 to Kimmet.

Regarding claims 33 and 34: Neither Rezag, Ferry or Riedinger teaches a sliding upper rail, however Kimmet teaches a folding door for a modular compartment which comprises a retractable upper rail (20) which slides into the wall, and which curtain folds in concertina fashion with the sliding of the rail (Kimmet ¶ 15). It would have been obvious to a person having ordinary skill in the art at the time of the invention to replace the curtain and rail of Rezag as modified by Ferry and Riedinger, with those of Kimmet, for the purpose of increased security (the curtain of Kimmet is lockable; see ¶ 15).

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry as applied to claims 18 and 41 above, and further in view of US Patent 6,398,164 to Fasse.

Regarding claim 42: the unit (36) of Rezag is not disclosed to be moveable from a raised operative position to a lowered bed support position. However, Fasse teaches a two-part bed for an aircraft cabin where the secondary part is raiseable to a table position for use when the bed is not in use (Fasse c. 2, l. 25-29). It would have been obvious to a person having ordinary skill in the art at the time of the invention to configure the unit (36) of Rezag to be moveable to a raised position for use as a table when the bed is not in use, for the purpose of gaining more utility out of the unit when it is not being used to support the bed.

Claims **43 and 44** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rezag in view of Ferry as applied to claim 18 above, and further in view of Dettmers.

Rezag is silent on a table assembly housed inside a credenza. Dettmers teaches a table assembly (14) which can be moved from a stored position within a credenza (12) (fig. 3) to an operative position with a table of the table assembly (14) extending horizontally from the credenza (fig. 2). It would have been obvious to a person having ordinary skill in the art at the time of the invention to provide the passenger compartment of Rezag, as modified by Ferry, with a table assembly and credenza as taught by Dettmers, for the purpose of having an in-flight tray table.

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The chair and seat of Rezag are on opposing sides of the doorway, the most reasonable place for the credenza of Dettmers is next to the wall opposite the doorway (possibly closer to the seat than the bed, to avoid interfering with the bed).

Response to Arguments

Applicant's arguments filed 5/14/2009 have been fully considered but they are not persuasive.

Regarding the patent 2,612,120 to Crawford, Applicant argues (Remarks pages 13-14) against the reference because the bed is supported by the entire folded seat, leaving little or no room for a passenger to maneuver, and that "train structures are more complex, heavier and quite unsuitable for a single passenger compartment for an aircraft". It is however noted that the claims are silent to the amount of seat or chair used to support the bed, or how much maneuvering space is left when the bed is unfolded. It is also noted that the compartment is claimed "for a passenger during an aircraft flight" and does not positively require that the compartment be placed in an aircraft. Further, the structural differences between trains and aircraft would not preclude the application of knowledge relevant to luxury passenger accommodation, since the primary constraint for both is of limited space.

Applicant's arguments with respect to claims 18, 20-34 and 39-44 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard R. Green whose telephone number is (571)270-5380. The examiner can normally be reached on Monday - Thursday 8:00 am - 6:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mansen can be reached on (571)272-6608. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. R. G./
Examiner, Art Unit 3644
/Tien Dinh/
Primary Examiner, Art Unit 3644